

1 THE HONORABLE BENJAMIN H. SETTLE
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 HP TUNERS, LLC, a Nevada limited liability) No. 3:17-cv-05760 BHS
11 company,)
12 Plaintiff,)
13 vs.)
14 KEVIN SYKES-BONNETT, JOHN)
15 MARTINSON and SYKED ECU TUNING)
16 INCORPORATED, a Washington)
corporation,)
Defendants.)

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18 Plaintiff, by and through its counsel of record, and Defendants, by and through their
19 counsel of record, present this Joint Discovery Plan in accordance with Magistrate Judge Fricke's
20 November 13, 2018 Order Denying Motions to Compel and Order Concerning Discovery (Dkt.
21 120):

22 1. **Reasonable Timeline For Completion.** On November 19, 2018, the Parties filed
23 a Joint Agreed Motion to Amend the Scheduling Order (Dkt. 123), which was granted on
24 November 28, 2018 (Dkt. 129). The Parties will work diligently to abide by the revised deadlines
25 set out in the Order Setting Jury Trial and Pretrial Dates (Dkt. 131) and agree that discovery can
26 be completed within the following timeline, which is stated in the Order:
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JOINT DISCOVERY PLAN - 1
No. 3:17-cv-05760 BHS

131191.0001/7504174.1

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- 1 a. Discovery Motions due 6/3/2019;
- 2 b. Expert Witness Disclosure/Reports under Fed. R. Civ. P. 26(a)(2) due
- 3 4/22/2019;
- 4 c. Rebuttal Expert Disclosure/Reports due 5/22/2019;
- 5 d. Discovery Completed by 7/1/2019

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7 2. **Search Terms and Methodology.** The Parties believe that the use of search

8 terms will be reasonably necessary to locate or filter ESI likely to contain discoverable

9 information. The Parties have agreed on appropriate search terms that will be used by

10 Defendants, which are attached as Appendix A. The Parties shall continue to cooperate in

11 revising the appropriateness of the search terms in response to any additional discovery requests

12 received. Defendants will employ a computer-aided methodology, which applies the search

13 terms to documents gathered from each Defendant. The search terms will narrow the number of

14 documents likely to contain discoverable information. Defendants will review the documents

15 for each search term to determine whether documents are responsive to Plaintiff's pending

16 discovery requests, non-responsive, or contain privileged information. If the Producing Party

17 determines that the search terms employed are too broad, the Parties agree to cooperate and

18 narrow the broad search term(s) at issue to reduce the frequency and encapsulation of non-

19 responsive documents.

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- 22 a. During the next discovery conference on December 14, 2018, the parties
- 23 agree to update the other and the Court about what party documents are
- 24 being searched and will be searched during discovery.

25 3. **Format.** The Parties agree that ESI will be produced to the Requesting Party with

26 searchable text. The Parties agree that acceptable formats include, but are not limited to, native

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1 files, multi-page TIFFs, single-page TIFFs, and searchable PDF. Unless otherwise agreed to by
2 the Parties, files that are not easily converted to image format, such as spreadsheet, database, and
3 drawing files, should be produced in native format.

4 a. On-site inspection of electronic media shall not be permitted absent a
5 demonstration by the requesting party of specific need or good cause or
6 by agreement of the Parties.
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8 4. **Privilege.** At this time, the parties do not foresee any unusual issues regarding
9 claims of privilege. The Parties agree to exchange privilege logs concerning any documents that
10 are responsive to discovery requests but withheld on the basis of privilege. The Parties agree
11 that the Producing Party shall make a privilege log available for any documents withheld on the
12 basis of privilege within thirty (30) days after the date agreed upon for final production in this
13 matter. For ESI, the privilege log may be generated using available metadata, including
14 author/recipient or to/from/cc/bcc names; the subject matter or title and date created. Should the
15 available metadata provide insufficient information for the purpose of evaluation of the privilege
16 claim asserted, the Producing Party shall include such additional information as required by the
17 Federal Rules of Civil Procedure.
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19 a. With respect to privileged or work-product information generated after the filing
20 of the complaint, parties are not required to include such information in privilege logs.
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1 Dated: December 3, 2018

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3 HP Tuners, LLC

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CERTIFICATE OF SERVICE

2 I hereby certify that on December 3, 2018 I electronically filed the above with the Clerk of
3 the Court using the CM/ECF system. In accordance with their ECF registration agreement and the
4 Court's ruling, the Clerk of the Court will send email notification of such filing to the following
5 persons:

6 **Attorneys for Plaintiff HP TUNERS, LLC** by **CM/ECF**
7 by **Electronic Mail**
8 by **Facsimile Transmission**
9 by **First Class Mail**
10 by **Hand Delivery**
11 by **Overnight Delivery**
12
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13 **Attorneys for Plaintiff HP TUNERS, LLC** by **CM/ECF**
14 by **Electronic Mail**
15 by **Facsimile Transmission**
16 by **First Class Mail**
17 by **Hand Delivery**
18 by **Overnight Delivery**
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19 Executed on December 3, 2018, at Seattle, Washington.

21 s/ Jackie Brown
22 Jackie Brown, Legal Assistant
23
24
25
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